

CONTINUATION SHEET TO FORM 125
CAROL HOWELL, APPELLANT

Name of administrative official whose decision is the subject of this zoning appeal:

**Matthew Le Grant
Zoning Administrator**

A statement identifying the administrative decision appealed:

**Email of Matthew Le Grant
August 9, 2021
Copy of Email attached hereto as Exhibit 1**

The square(s) and lot(s) and/or street address of the property involved, and the zone district within which it is located.

**316 2nd Street, SE
Washington, D.C. 20003
Owners: Jeffery D. Cargill and Crystal D. Cargill
Zone/District R-3**

**314 2nd Street, SE
Washington, D.C. 20003
Owner: Carol Howell
Zone/District R-3**

Name and address of the owner of the subject property.

**Jeffery D. Cargill and Crystal D. Cargill
316 2nd Street, S.E.
Washington, D.C. 20002**

A statement demonstrating that the zoning appeal meets the jurisdictional requirement of timeliness as specified in Subtitle Y Section 302.2.

Mr. Le Grant's Email granting the 316 2nd Street, request for minor flexibility pursuant to D.C. Municipal Regulations Section 11-A304.1, 304.2 and 304.3(a)(a)(c)(d)(e)(f) et. seq. came to the knowledge of Ms. Howell (who is appealing the decision) on or about April 18, 2022 when inquiries were made into BZA Case No. 20543, in which it was filed on March 25, 2022. Prior to that date, Ms. Howell had not seen, been given, or had occasion to see the August 9, 2021 email of Mr. Le Grant. She was not provided the architectural plans for the proposed addition (as required by law) prior to the granting of the now expired building permit in this case, although she requested the plans be given to her. She will testify to this fact. Mr. Le Grant's August 9, 2021 email prejudiced and barred Ms. Howell's from expressing her rights and concerns as an abutting property owner in BZA Hearing held on April 20, 2022 in BZA Case No. 20543.

Ms. Howell is a Party Opponent in BZA Case No. 20543, in which the email of Mr. Le Grant was filed. Ms. Howell, through Counsel, sought the disclosure of the documents and architectural plans that Mr. Le Grant reviewed, and on which he based his approval decision in the August 9, 2021 email. These documents were formally requested in BZA Case No. 20543; they were requested from the Applicants' attorney in BZA Case No. 20543; they were requested from Mr. Le Grant via voice mail, and email. They were requested in a formal document request filed in BZA Case No. 20543. As of this writing, they have not been provided.

Ms. Howell had no prior knowledge of Mr. Le Grant's granting of "the requested minor flexibility." Although Ms. Howell owns, and lives in 314, which abuts the subject property, and her light, air, privacy, and use and enjoyment of her abutting property are unduly affected and compromised by the proposed addition, Ms. Howell was not informed of Mr. Le Grant's action, and she had no way of knowing or learning of the subject email of Mr. Le Grant, which was held in the possession of the Applicants, until March 25, 2022, when it was filed in BZA 20543 (without the supporting documents and plans that Mr. Le Grant reviewed in making his decision). The Cargills did not disclose to Ms. Howell, or her Counsel the architectural plans for the addition they proposed either prior to or after the issuance of a building permit (Number B2011821), which expired in January.

The Appellant, Ms. Howell is appealing the granting of "the requested minor flexibility" in this timely appeal with the filing of her Form 125, Continuation Sheet, Memorandum in Support of Appeal and Motion/Request for Injunction on any Construction on the Rear Extension/Addition at 316 2nd Street, SE, Washington, D.C., and Exhibits hereto, including a certified D.C. Surveyor's Plat. She has 60 days from when she knew or could have known of Mr. Le Grant's August 9, 2021 email granting the requested relief. Under the discovery rule, she is well within the 60 days she is allowed.

A statement of the issues on appeal, identifying the relevant subsection(s) for each issue of the Zoning Regulations:

Issue 1. Did Mr. Le Grant, Zoning Administrator, err in granting the requested minor flexibility when the flexibility requested was inaccurately measured, or omitted information critical to accurate measurement, and actually fell outside Mr. Le Grant's two percent (2%) authority/discretion? 11 DCMR Section A-304.3 et. seq. and 11-B DCMR Section 312 (Definitions, Rules of Measurement, and Use Categories)

Issue 2. Did Mr. Le Grant err in finding that the requested "minor increase of lot occupancy of the one foot extension is minimal" when the actual increase exceeds the Zoning Administrators 2% "minor flexibility" authority? 11 DCMR Section A-304.3 et. seq. and 11-B DCMR Section 312, supra.

Issue 3. Did Mr. Le Grant err when he found that the light and air available to 314 2nd Street, SE, would not be unduly compromised by the proposed extension to the rear of 316 2nd Street, SE? (11 DCMR Section A-304.3(a) et. seq.)

Issue 4. Did Mr. Le Grant err when he found that "the proposed extension will not have windows facing adjacent properties on the sides so it is unlikely to affect privacy" of abutting properties? (11 DCMR Section A-304.3(b))

Issue 5. Under the “unduly compromise” standard, did Mr. Le Grant err in finding the “slight increase in lot occupancy is unlikely to have any effect” on Ms. Howell’s use and enjoyment of her abutting property, 314 2nd Street, SE?

Issue 6. Did Mr. Le Grant err in granting the request for minor flexibility without seeking the input of abutting property owner (Ms. Howell)?

Issue 7. Did DCRA err in issuing building permit number B2011821 (expired) *inter alia* on the August 9, 2021 Email of Mr. Le Grant granting the requested “minor flexibility”, and should the permit be voided *Nunc Pro Tunc*?

Summary of the testimony of all witnesses.

Ms. Carol Howell will testify that on or about April 18, 2022 she received first notice of Mr. Le Grant’s August 9, 2021 email granting the request for minor flexibility made by Richard Holowchak on behalf of the Cargills, owners of 316 2nd Street, SE, Washington, D.C. She will testify that she was not provided copies of the architectural plans for the proposed addition to 316 2nd Street, SE, as required by law, prior to a building permit being issued by DCRA. She will testify that the proposed addition will unduly affect the sunlight to the rear of her modest home, and in the dog leg, as well as her master bedroom, her library, her kitchen, and her rear courtyard. She will testify that the light to her rear courtyard will be unduly affected, and that shadows and shade will occupy essentially all of her rear yard, which will not allow her to plant, and enjoy sun in her rear courtyard. She will testify that if the extension is allowed, the privacy that she now enjoys in the rear of her home, including her library, kitchen, master bedroom, and courtyard will be unduly affected by prying eyes of those standing on the pergola/deck and stairs of the proposed extension onto the rear of 316 2nd Street, SE, Washington, D.C. She will testify that the size and proximity of the addition, if allowed, will unduly affect airflow and light to her rear yard, and her rear southern facing windows in the dogleg. She will testify that her use and enjoyment of her property (courtyard and rear rooms of her home) will be compromised because of lack of light, privacy, and air. She will testify that the large overbearing rectangular shape of the proposed addition does not conform to the pattern and scale of other buildings on 2nd Street, SE, and in the neighborhood. She will make use of Architectural drawings and photographs filed herein as **Exhibits 6 a-j** to aid and elaborate on her testimony. Ms. Howell will rely on 13 DCMRA 12-A Section 3307 et. seq.; 11 DCMR Section A-304.3 et. seq., and other applicable codes to safeguard neighbor’s properties. Ms. Howell will also rely on **Exhibit 8**, the email of Dineshkumar Patel (DCRA), Project Manager – Plan Review Department, notifying the owners of 316 2nd Street, SE, Washington, D.C. that she (Ms. Howell) had not received the project documents as required pursuant to 13 DCMR A12A Section 3307 et. seq.

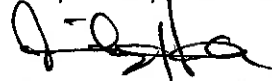
Don Lipscomb, Architect (expert) will testify that in his professional opinion, Ms. Howell’s air, light, privacy, use, and enjoyment of her property will be substantially limited, unduly affected, and unduly compromised. He will use and rely on **Exhibits 4, 5, and 6 (a-j)**; resume, narrative, architectural renderings and photographs included in this appeal to aid and explain his testimony. His CV is also made a part of this Appeal by an filed herein as **Exhibit 5**. He will rely on 11 DCMR Section A-304.3 et. seq., and other applicable Zoning Laws, Rules, and Regulations.

Robert Eitel, Engineer (expert) will testify regarding 316 2nd Street, SE, lot occupancy and area calculations. He will testify that Mr. Le Grant erred when finding that the “requested minor flexibility” was properly reflected in the plans/documents provided him, or in the alternative that the documents provided him by Richard Holowchak were inaccurate, and not the same as the documents and

architectural plans entered into the BZA Case No. 20543. The latter testimony is conditioned on the receipt and review of the documents and plans which Matthew Le Grant, Zoning Administrator reviewed in making the decision to grant the requested "minor flexibility" requested by Richard Holowchak, contractor for the Cargills, in his email to Mr. Le Grant. These documents and plans have been requested numerous times, and never provided.

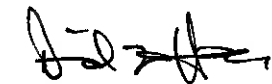
He will testify, based on his education, training, and experience, and his review of architectural plans, and documents, certified plat, etc., that the total building area at the second floor is $781 + 13.5 + 338 = 1,132.5$ sf. The lot area per the OP (Office of Planning) memo is 1,814 sf. The lot occupancy is calculated as $1,132.5/1,814 = 62.4\%$ which exceeds the 61.2% maximum including the allowable deviation. He will testify that the "minor flexibility" requested falls outside the authority of Mr. Le Grant, the Zoning Administrator who granted the request in an email dated August 9, 2021. Mr. Eitel's CV is attached hereto as **Exhibit 7a**. The summary of Mr. Eitel's testimony is attached as **Exhibit 7**. The D.C. Land Surveyor's Certified Plat is attached hereto as **Exhibit 7c**. Robert Eitel/Landesign Renderings are attached as **Exhibits 7d and 7e**. The DC Zoning Code Rules of Measurement are attached as **Exhibit 7b**. In addition to these exhibits, Mr. Eitel will rely on **Exhibit 11**, architectural plans and drawings submitted by the Cargills (owners of 316 2nd Street, SE,) in BZA Case Number 20543. Mr. Eitel, will rely on 11-B DCMR Section 312 et. seq. (Rules of Measurement for Lot Occupancy); **Exhibit 9**, Matthew Le Grant Email of August 9, 2021; 11 DCMR Section A-304.3 et. seq.; and other applicable Zoning Laws, Rules, and Regulations.

Respectfully submitted,



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I hereby certify that on the 3rd day of May, I have caused to be served a copy of Form 125-Appeal along with the Continuation Sheet and Carol Howell's Memorandum in Support of Appeal and Motion/Request for Injunction on any Further Construction on the Rear Extension/Addition at 316 2nd Street, SE, Washington, D.C., and all Exhibits and attachments filed in this Appeal on:
Matthew.legrant@dc.gov carolhowell244@gmail.com msullivan@sullivanbarros.com 6B@anc.dc.gov
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crystal.d.chappell@gmail.com by email transmission to same.



David F. Hal